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being shown, makes a *prima facie* showing of negligence, requiring defendant to overcome it.

The commonly accepted doctrine is that the mere communication of fire by a railroad engine is sufficient of itself to raise a *prima facie* presumption against the company. *Louisville & N. R. Co. v. Marbury Lumber Co.*, 125 Ala., 237. And the burden of proof is on the railroad company to show that it was not negligent in causing the fire. *Kornegay v. Railroad Co.*, 154 N. C., 389. But the burden is only of proving that the company used the best and most improved appliances. *White v. Chicago, M. & St. P. R. Co.*, 1 S. D., 326. In Colorado, Maine, Missouri, Oklahoma and South Carolina there are statutes making the railroad company absolutely liable irrespective of negligence. The above cases hold the modern and better rule. The older and now obsolescent rule is that the burden of proof is on the plaintiff to show not only that the fire was caused by the sparks, but also that the emission of such sparks was caused by the negligence of the company. *Garrett v. Southern Ry.*, 101 Fed., 102. For there exists no presumption of negligence on the part of the company in such a case. *B. & O. S. W. R. R. v. O'Brien*, 38 Ind. App., 143; *Babbitt v. Erie R. Co.*, 95 N. Y. Supp., 429. And the plaintiff must also show absence of contributory negligence on his part. *Wabash R. Co. v. Miller*, 18 Ind. App., 549; *Louisville, N. A. & C. Ry. Co. v. Carmon*, 20 Ind. App., 471. But if the railroad company pleads that its engine was furnished with a proper spark arrester, the burden of going forward with evidence is thereby shifted. *Ill. Cent. R. Co. v. Barrett*, 23 Ky. Law Rep., 1755; *contra*, *Toledo, St. L. & W. R. Co. v. Fenstermaker*, 163 Ind., 534. Here the title case is clearly on the side of the better and more modern authorities.

TORTS—INTERFERENCE WITH CONTRACT.—*MEALEY v. BEMIDJI LUMBER Co.*, 136 N. W., (MINN.), 1090.—*Held*, that one who wrongfully interferes or intermeddles with the contract relation between two others, and thereby prevents one of them from carrying out the contract, which results in loss to the other, is liable for such loss.

That a contract existing between two parties may give rise to rights *in rem*, as well as rights *in personam*, is well established in England. *Lumley v. Gye*, 2 E. & B., 216; *Temperton v. Russell*, 1 Q. B., 715. It is also established in this country. *Walker v. Cronin*, 107 Mass., 555; *Angle v. Chicago Ry. Co.*, 151 U. S., 1; *London v. Horn*, 206 Ill., 493. This is denied in a few jurisdictions. *Chambers v. Baldwin*, 91 Ky., 121; *Glencoe v. Hudson*, 138 Mo., 439. If the contract is one of employment the great weight of authority is that one who induces another to break such a contract is liable to the party injured thereby. *Bowen v. Hall*, 6 Q. B., 333; *Bixby v. Dunlap*, 56 N. H., 456; *May v. Wood*, 172 Mass., 11. *Contra*, *Bourlier v. Macauley*, 91 Ky., 135. In contracts other than employment the authorities are more divided. Many Courts hold that liability in tort for causing a breach in a contract between others does not exist outside of

contracts of employment. *Boyson v. Thorn*, 98 Cal., 578; *Raycroft v. Taintor*, 68 Vt., 219. But the modern tendency is strongly toward the view that contract rights are property and are entitled to protection. *Garst v. Charles*, 187 Mass., 144; *Tubular Rivet Co. v. Exeter Root Co.*, 159 Fed., 824; *Mahoney v. Roberts*, 86 Ark., 130. The gist of the action, applying both to contracts of employment or other contracts, is the existence or non-existence of the malicious motive. *Joyce v. Great Northern Ry. Co.*, 100 Minn., 225; *Hushie v. Triffin*, 75 N. H., 345. Malice in its legal sense means a wrongful act, done intentionally, without just cause or excuse. *Com. v. Goodwin*, 122 Mass., 19. Applying the law, as thus found, to the principal case, it is in accord with the better opinion both in this country and in England.